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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,335	02/25/2004	Jorge L. Lombana	240022	8789

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EXAMINER

LAWRENCE JR, FRANK M

ART UNIT PAPER NUMBER

1724

DATE MAILED: 01/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/785,335

Applicant(s)

LOMBANA, JORGE L.

Examiner

Duane S. Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 5 is/are rejected.
- 7) ☒ Claim(s) 2-4 and 6-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watts(US Patent No. 4,278,550) taken together with Lavigne (Us Patent No. 2,015,076).

Watts teaches a centrifugal separator device (Figs. 1 and 4) including a wound conduit member(3) having an inlet(2) and an outlet (10) defining an outermost wall (5) having a plurality of through openings(4, see Figs.3-4,cols.2-3) and means for generating a pressure differential(inherent) between the inlet and the outlet of the conduit to flow a mixture comprising at least two fluids having differing densities through the conduit whereby the denser fluid is forced out through the openings(4) by the centrifugal forces and separated from the lighter fluid (col. 2 lines 30-45, col. 3 lines 20-45). Watt further teaches housing means(13) for collecting the denser fluid and openings(4) disposed at an angle (see Figs.). .Watts discloses the device essentially as claimed, supra, except for the conduit having a plurality of inwardly extending wall portions for each of the through openings adjacent and upstream therefrom to prevent reentrainment and facilitate exiting of the denser fluid. However, Lavigne does disclose such a feature(unlabeled but best seen in Fig. 6 and element 9 in Figs. 2-3). It would have been obvious to one of ordinary skill in the art at the time of the invention to

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include such extending walls as in Lavigne in the device of Watts in order to dived and accumulate separated denser fluid as suggested by Lavigne(col. 3 lines 33-40).

3. Claims 2-4 and 6-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Applicant's arguments, see pages 8-9, filed 12-20-04, with respect to claims 2-4 and 6-8 have been fully considered and are persuasive with respect to the previous 102b rejection and 103 rejection. Therefore, the rejections have been withdrawn. However, upon further consideration, a new ground(s) of rejection is made, *supra*.

5. Applicant's arguments filed 12-20-04 with respect to claims 1 and 5 have been fully considered but they are not persuasive. Applicant argues that Watts does not disclose an inwardly extending wall. While such may be true, Lavigne does disclose an inwardly extending wall(9). Applicant further argues that Lavigne does not disclose a housing. While such may be true, Watts does disclose a housing(13). Applicant argues that the barrier(9) does not function as the inwardly extending wall of the instant invention. However, such is viewed as intended usage of the inwardly extending wall and a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458,

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459 (CCPA 1963). All other arguments have been considered but are not deemed to be persuasive.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duane S. Smith whose telephone number is 571-272-1166. The examiner can normally be reached on 8:30-6:00 M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane S. Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Duane S. Smith
Primary Examiner
Art Unit 1724

D-MA
1-26-05

Dss
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